

The Chairperson, in consultation with other members of the Commission's Advisory Staff as appropriate, shall examine NYNEX proposals for the proposed Backbone Tier and optional Access Tier Standard Packages described in Parts III.B, III.C.1 and 2 above, to ascertain that the costs of those proposed elements are calculated correctly for the purpose of ultimate measurement pursuant to Part VI.A above. To the extent that NYNEX files as confidential competitively-sensitive information, the chairperson shall order appropriate protection.

It shall not be necessary for a user choosing one of the NYNEX standard packages, or a previously approved alternative equivalent value package, to consult with the Advisory Board about that selection. There is no need for an Advisory Board recommendation or Commission approval of the use of standard packages as described in Parts III.C.1 or 2 above. A qualified user need only request the service from NYNEX.

The Advisory Board shall review requests and proposals for training and make recommendations for approval to ensure the proposed training meets user needs and that the costs of training are reasonable. The Board may also consider whether to recommend standard training packages. For the first year we will approve up to \$500,000 in training expense unless there is good cause to increase that limit.

The Advisory Board shall review NYNEX's initial measurement and true-up report submitted pursuant to Part V.A above, and shall provide its evaluation of that report to the Commission. The Advisory Board's report may include recommendations for further action by the Commission.

The Advisory Board shall review and report on any other aspect of administration of the plan as requested by the Commission.

3. Procedure

The Chairperson shall schedule regular meetings of the Advisory Board, at which members of the Advisory Board shall address matters that are assigned to them by this Order. Meetings will be open to the public. The Chairperson will determine the extent of public participation at Advisory Board meetings. To the extent that proprietary or competitively sensitive information that requires trade secret protection must be brought before the Advisory Board, the Chairperson may issue such protective orders as may be necessary, pursuant to the Maine Rules of Civil Procedure.

Proceedings by and before the Board shall be informal. They shall not be considered adjudicatory proceedings. The voting members of the Board shall attempt to reach consensus on its recommendations and other issues brought before it. "Consensus" shall mean agreement by four of the five "public" members of the Advisory Board. The voting members will not include entities that have or that represent industries that have financial interests in the outcome of the Board's recommendations. Thus, the voting members shall be the Commission Staff members, the representative of the OPA and the representatives of the libraries and schools. For a particular decision, the Board may decide that it will make a recommendation by majority vote, provided that those voting the minority have some reasonable opportunity to present their views to the Commission. Decisions to recommend approval or disapproval of request for alternative equipment value services shall be made within 30 days.²¹

If it should appear that consensus of the Advisory Board may not be reached on a matter, the Chairperson shall refer the issue to the Commission for decision. Generally, the Chairperson shall issue a Report to the Commission that summarizes the issues and may include proposed findings. When appropriate, the Chairperson may devise other procedures that will enable the Commission to make an informed decision. As noted above, the Advisory Board proceedings are not adjudicatory. However, when the Chairperson issues a report, the provisions of Chapter 110, § 752, which govern a presiding officer's (examiner's) reports, shall provide guidance. Thus, an opportunity shall be provided for board members and persons with a direct stake in the outcome to comment on the report or other appropriate opportunity to make their views known to the Commission. We expect that those persons will contact the Commission only through the procedures established by the Board Chairperson.

C. Reporting

The Chairperson of the Advisory Board shall initially, at least quarterly, advise the Commission on the status of the Advisory Board's administration of the plan, including all activities of the Advisory Board, issues brought to the Advisory Board, consensus recommendations reached, and schedules established for further plan administration.

²¹If the Board initially receives a substantial number of such requests, such that they cannot all be processed within 30 days, the Chairperson of the Advisory Board, in consultation with the Chairman of the Commission, may temporarily enlarge the 30-day deadline for processing requests.

VIII. RELATIONSHIP TO OTHER INFORMATION SERVICE INITIATIVES

Concerns have been raised about possible duplication with the asynchronous transfer mode (ATM) network that the State is planning to implement, or the possibility that the ATM network may be able to provide information services connectivity to high schools and to the seven libraries that the State proposes shall be served by that network. We understand that a primary purpose of the ATM network is to provide interactive classroom capability. It is possible that high schools and the seven libraries would be able to obtain information services through the ATM network.²² To clarify the relationship between the frame relay system and ATM, to avoid duplication of facilities, to make the best use of ratepayer dollars, and to ensure coordination of various activities relating to providing telecommunication service to schools and libraries, we will hold a further conference of the parties and other interested persons in the near future.²³ As noted above, at the conference we will also discuss the issue relating to number of computers per school and whether certain private schools should be eligible.

Accordingly, it is

ORDERED,

That:

1. A plan to reduce rates and/or provide additional services or equipment to libraries and schools is approved as outlined in Part III of this Order;
2. Docket No. 94-254 is closed;²⁴
3. A new non-adjudicatory proceeding will be opened to implement the decisions contained in this Order;

²²To the extent that funding for connecting to the ATM network is not already provided by proceeds of the bond issue recently approved by voters, alternative equivalent value funding may be available for the purpose of connecting to the ATM network. Obviously, a high school or library may choose not to participate in the NYNEX plan.

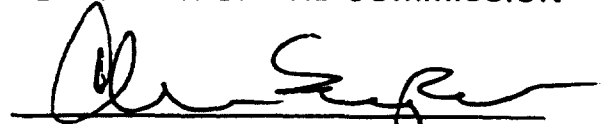
²³Notwithstanding that conference, we consider all of the decisions set forth in this Order to be final decisions.

²⁴Docket No. 94-123 shall remain open until our approval of a methodology for calculating total service long-run marginal costs and service quality and reporting issues.

4. An Advisory Board is created as described in Part VII of this Order;
5. The entities selecting members of the Advisory Board pursuant to Part VII.B.1 above shall notify the Commission's Administrative Director of these selections within 30 days from the date of this Order;
6. The Chairperson shall convene the Advisory Board within 45 days of the date of this Order;
7. The Advisory Board shall develop and make recommendations concerning implementation of the Approved Plan as described in Part VII.B.2 above within 90 days of the date of this Order;
8. NYNEX shall report its accounting of costs for FRS facilities as described in Part VI.A above within 30 days of the date of this Order; and
9. NYNEX shall continue to accrue \$333,333 per month into a special account as described in Part VI.B above.
10. A conference of parties and interested persons will be held in the near future to address the following issues:
 - a. The relationship between the frame relay system approved in this Order and the asynchronous transfer mode (ATM) system being implemented by the State of Maine,
 - b. The definition of eligible schools, and
 - c. The number of computers per school.

Dated at Augusta, Maine, this 5th day of January, 1996.

BY ORDER OF THE COMMISSION


Christopher P. Simpson
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
COMMISSIONER CONCURRING: Hunt

CONCURRING OPINION OF COMMISSIONER HUNT

I support the Order's goal to provide advanced telecommunications services to our public schools and libraries. The Order is sufficiently flexible to afford user choice and it achieves that end with relatively few bureaucratic hurdles. I find these features of the Order particularly important.

I write separately because I regret that the record in this case does not indicate that there has been integrated planning of the State's various initiatives to advance telecommunications technology at our public institutions with ratepayer and taxpayer bond dollars.

Specifically, this Order adopts voice grade or Frame Relay Service as the "standard service" for all public schools and libraries using ratepayer dollars. The choice of any other service at least initially requires additional approval by the PUC and more effort on behalf of the school or library. The Order also ensures the availability of computers. Although Frame Relay Service is capable of providing internet access, so are other more sophisticated technologies such as Asynchronous Transfer Mode.

The State issued a Request for Proposal for Asynchronous Transfer Mode technology for 136 high schools, seven libraries and 27 vocational schools. And in November, voters approved a \$15 million bond to make it possible for schools to purchase equipment necessary for ATM. ATM can provide distance learning capability as well as internet access.

While the two efforts do not conflict, this Commission was neither part of, nor formally made aware of, any attempt to move the projects in concert. I believe the common pursuit to bring the information age to the public schools calls for a unified effort by all players to make the best possible use of public dollars.

As a result, I believe there remain questions unanswered. For example, does the fact that the State, with input from the Department of Education, issued an RFP for ATM for the high schools mean that the high schools want ATM's capacity for distance learning and internet access rather than Frame Relay Service's internet access alone? If so, why did the Department of Education, in our proceeding, endorse Frame Relay Service as the technology of choice for the high schools? Given the State's goal to equip the high schools with ATM, is it likely that those schools may seek the alternative funding for ATM? Should we not have considered tailoring this Order to automatically accommodate the State's ATM project?

I appreciate the Commission's willingness to hold a conference to discuss the interplay of the various technologies and telecommunication infrastructure initiatives. However, it is unfortunate that the record in this case does not reflect a coordinated effort to make the best, most efficient use of public dollars.



NEWS RELEASE

STATE OF MAINE
Public Utilities Commission

AUGUSTA
04333

THE PUBLIC UTILITIES COMMISSION APPROVES NETWORK
ACCESS PLAN FOR MAINE'S LIBRARIES AND SCHOOLS

The Maine Public Utilities Commission approved a plan to improve access to information networks and services for Maine's libraries and schools. The plan directs the spending of up to \$4.0 million dollars a year for five years to enhance information networks and services to libraries and schools throughout Maine. The plan, as approved, will also allow Maine's libraries and schools to design the access which best suits their individual needs by providing a choice of telecommunications services packages.

Under the plan, all services or facilities will either be provided directly by NYNEX or by other providers with monies drawn from a NYNEX-managed account. NYNEX will be required to develop and make available a Backbone Tier and two standard NYNEX-provided Access Tier packages. Each library and school can choose one of these two NYNEX provide Access Tier packages.

A library or school may also choose an alternative "equivalent value services" package in lieu of the NYNEX standard packages. The equivalent value service package will allow the libraries and schools flexibility in providing for their individual needs. As long as an equivalent value service package provides network functions that are

equivalent or better than those provided under the NYNEX standard package, a library or school will be permitted to contract for such services. A library or school can also "pool" or combine its individual service package with other users to purchase or construct access services for more than one user. The alternative service packages, which may include access technologies and network functions, may be furnished by NYNEX or other providers (e.g., cable television, internet access providers, or interexchange companies).

The Commission also ordered that computers and related equipment be made available to schools and libraries who do not currently have the equipment needed to take advantage of the interconnection.

To oversee implementation of the plan, the Commission has ordered the creation an Advisory Board. This Board would assist the Commission in reviewing alternatives available to schools and libraries, and recommend specific alternatives for Commission approval. The Advisory Board would include representatives from the Office of the Public Advocate, NYNEX, the New England Cable Television Association, the Maine Department of Education, the Maine library community, Maine internet service providers, and the Commission's Staff.

#

NYNEX School + Library PR. - 12/18

General List

Associated Press

P.O. Box 349
Augusta, ME 04330-0349
Peter Jackson, Correspondent

Tel: 622-3018
Fax: 626-5713

Maine Public Radio

State House Station #70
Augusta, ME 04333

Tel: 287-1098
Fax: 287-1099

Kennebec Journal

Business Editor - Stan Eames
274 Western Avenue
Augusta 04330

Tel: 623-3811
Fax: 623-2220

Bangor Daily News

Business Editor - Carroll Astbury
491 Main Street
Bangor 04401

Tel: 990-8000
Fax: 941-0885

Journal Tribune

Business Editor - Mo Mehlsak
Alfred Road
Biddeford 04005

Tel: 282-1535
Fax: 282-3138

The Times Record

Features Editor - Virginia Wright
Industry Road
Brunswick 04011

Tel: 729-3311
Fax: 729-5728

The Sun-Journal

Business Editor - Joel Davidson
104 Park Street
Lewiston 04240

Tel: 784-5411
Fax: 777-3436

Portland Press Herald

Business Editor - Amy Vigeant-Canfield
390 Congress Street
Portland 04104

Tel: 791-6650
Fax: 791-6927

Central Maine Morning Sentinel

Features Editor: Ann McGowan
25 Silver Street
Waterville 04901

Tel: 873-3341
Fax: 873-6145

Maine Times

Editor - Peter Cox
561 Congress Street
Portland, ME 04101

Tel.: 828-5432
1-800-439-8866
Fax: 828-5438

Public Advocate

Steve Ward
State House Station 13
Augusta

Tel: 287-2445
Fax: 287-4317

Please For NYNEX Press-Release
Julie Sebastian (Julia Bouey)
Channel 2 News

Tel: 942-4821
For 942-2109

Please put
For Memo
on this
one + Send



NEWS RELEASE

STATE OF MAINE
Public Utilities Commission

AUGUSTA
04333

For Immediate Release

November 11, 1994

Contact Person

Brian R. Cornwall

(207) 287-1383

HEARING EXAMINERS RECOMMEND PLAN TO THE
PUBLIC UTILITIES COMMISSION FOR IMPROVED NETWORK
ACCESS & SERVICES FOR MAINE'S LIBRARIES AND SCHOOLS

Hearing Examiners for Public Utilities Commission filed with the Commission today their recommendations for improved access to information networks and services for Maine's libraries and schools. Their proposed plan was filed in a compliance phase of the NYNEX-Pease rate case (Docket No. 94-254) and would allow Maine's libraries and schools to choose one of three alternative, equivalent-valued packages of telecommunications services.

The Examiners' plan proposes how to spend up to \$4.0 million dollars a year for five years to sharply enhance information networks and services to libraries and schools throughout NYNEX's service territory. Under the recommended plan, all services or facilities will either be provided directly by NYNEX or by other providers with monies drawn from a NYNEX-managed account.

The plan calls for NYNEX to develop and make available a Backbone Tier and two standard NYNEX-provided Access Tier packages. Each library and school could choose one of these two Access Tier packages, which would include computers and connection equipment for libraries and schools that do not presently have that equipment. Each library

and school would also have the option of developing an alternative Access Tier "equivalent value services" package in lieu of the NYNEX standard packages.

The equivalent value service package will allow the libraries and schools flexibility in providing for their individual needs. As long as an equivalent value service package provides network functions that are equivalent or better than those provided under the NYNEX standard package, a library or school will be permitted to "pool" or combine its individual service package with other users to purchase or construct access services for more than one user. The alternative service packages, which may include access technologies and network functions, may be furnished by NYNEX or other providers (e.g., cable television, internet access providers, or interexchange companies). To provide the necessary "seed money," the Examiners have recommended that NYNEX continue accruals of \$333,333 monthly into a special account.

The Commission may accept all, part, or none of the recommendations submitted by the Examiners (pursuant to a May 1995 Commission order). The Examiners' recommendations have no binding effect and do not constitute Commission action. Parties and other persons interested in the issues addressed by the Examiners in their report may file comments or exceptions with the Commission on or before December 11, 1995. The Commission plans to consider the Examiner's recommendations and the filed comments/exceptions and decide the matter at a public deliberative session on December 18, 1995.

The Examiners also recommend that costs be measured and trued-up to insure the plan is providing up to \$4.0 million per year for five years to the schools and libraries for connections. This evaluation

will be based on the intrastate costs of NYNEX's incremental expenditures under the plan.

To oversee implementation of the plan, the Examiners recommend the creation an Advisory Board. This Board would assist the Commission in reviewing alternatives available to schools and libraries, and recommend specific alternatives for Commission approval. The Advisory Board would include representatives from the Office of the Public Advocate, NYNEX, the New England Cable Television Association, the Maine Department of Education, the Maine library community, Maine internet service providers, and the Commission's Advisory and Advocacy Staffs.



AUGUSTA
04333

Brin

Q: WHAT DID THE PUBLIC UTILITIES COMMISSION DECIDE WITH REGARD TO PROVIDING SCHOOLS AND LIBRARIES ACCESS TO INFORMATION NETWORKS?

On January 8, 1996, the Public Utilities Commission issued an Order in Docket Nos. 94-123 and 94-254 approving a plan to provide schools and libraries with access to advanced information networks and services. The Order describes the equipment and services NYNEX must provide to this end. Some implementation issues remain to be worked out over the coming months with the input of all the affected parties.

Under the Order, NYNEX has been directed to provide a state-wide network that will allow interconnection among individual users and access to other network services including the Internet and its World Wide Web. This network is referred to as the "Backbone Tier."

In addition, the Order provides that each eligible school and library will have available the services and facilities it needs to connect to the Backbone Tier; this ability to connect is referred to as the "Access Tier". Each school and library may choose one of several Access Tier options. Each school and library may choose one of the two standard Access Tier packages offered by NYNEX, services and facilities each school or library develops, or services and facilities provided by other vendors (for example, cable TV companies)

The Order also provides funding for schools and libraries to buy a computer and obtain system training. Finally, the Commission established an Advisory Board to assist in resolving any issues that arise as the plan is implemented.

Q: WHAT IS NYNEX REQUIRED TO DO AND WHEN WILL THESE REQUIREMENTS BE COMPLETED?

First, NYNEX must build the "frame relay backbone" which forms the basis of the Backbone Tier. The entire "backbone" could be in service as early as July 1996. More information on the progress of the Backbone Tier will be available once the Advisory Board convenes.

Next, NYNEX is required to make available two "standard" Access Tier packages. Each package will provide a physical link between the computer located at each school or library and the Backbone Tier. Schools and libraries may choose one or the other of the two packages.

The first package of services and equipment to be provide by NYNEX includes a Frame Relay Service (FRS) connection with an individual DDS-11 56 Kbps access circuit from the school or library to the closest FRS access point. This access circuit includes a 56 Kbps port and a 56 Kbps internal Frame Relay Access Device (FRAD) which connects a computer to the frame relay transport channels.

The second package available through NYNEX will consist of one voice-grade business line and a V.34 modem connecting the business line to the computer located at the school or library. The business line comes with 22 hours of free intrastate toll usage per month.

Both these packages include user training. The Advisory Board will be involved in ensuring that the dollars allocated to training are well spent.

In addition to the Access Tier, the Order allows public libraries to obtain one or two business voice-grade access lines at a discounted rate of \$12 per line per month (exclusive of any toll charges). This line or lines are in addition to the access line provided by the Access Tier package.

Q: WHAT CAN OTHER INTERNET PROVIDERS DO FOR SCHOOLS AND LIBRARIES?

The Commission acknowledges that the Access Tier packages offered by NYNEX may not be the best services for some schools and libraries. Therefore, the Order allows a school or library to connect with the Backbone Tier with an individually designed access tier package. These packages, called "Alternative Equivalent Value Services," may be designed and provided by NYNEX or any other provider of access services.

The only requirement for the alternative service is that it must provide actual access to the Backbone Tier with network functions that are equivalent to or better than those provided under the NYNEX standard packages. Plans to implement an alternative service must be submitted to the Advisory Board. The Advisory Board will review each alternative equivalent value service proposal and make a recommendation within 30 days to the Commission for acceptance or rejection. Once an alternative service is approved by the Commission, it will be included on a list of approved alternative services. A school or library may choose any of these approved alternative service without further Board or Commission action.

Q: HOW MUCH MONEY WILL I GET AS A SCHOOL OR LIBRARY FROM NYNEX TO EXPEND ON AN ALTERNATIVE EQUIVALENT VALUE SERVICE PACKAGE?

Each school or library that contracts for an approved alternative equivalent value service package will receive funding from NYNEX equal to what it would have cost NYNEX to provide 56 Kbps access from its "backbone" to the location of the school or library. Since the cost to provide the NYNEX 56 Kbps access will vary depending on school and library specific factors, such as distance from the "backbone," the funds available to each school and library is not yet known. Each school or library considering the alternative equivalent value service option must contact NYNEX directly for this information.

The funds provided by NYNEX for an alternative equivalent value service package is limited to the costs of the NYNEX provided 56 Kbps access package. This does not, however, limit the amount an individual school or library may spend for an Access Tier package. Any costs above the NYNEX provided funding will be paid by the school or library contracting for the package. Schools and libraries may "pool" their resources to design integrated regional or district systems. NYNEX provided funding in such instances will be the sum of the amount available to each school or library in the integrated system.

Finally, NYNEX is required to make payment directly to the vendor of those alternative services. Therefore, each school or library contracting with a provider other than NYNEX must coordinate this effort with NYNEX. The procedures for this coordination will be addressed by the Advisory Board.

Q: WHAT DO THE SCHOOLS AND LIBRARIES NEED TO DO TO PARTICIPATE IN THE PLAN AND WHEN DO THEY HAVE TO DO IT?

Many practical implementation issues remain to be resolved with the input of everyone involved in the plan. The Commission created the Advisory Board to help answer these questions. The Advisory Board will develop procedures to ensure all schools and libraries will have an opportunity to participate in the plan's implementation. The details regarding whom to contact for information will be provided to schools and libraries soon after the Advisory Board members are selected. The Advisory Board will distribute information on how and when to choose an Access Tier in advance of the time the schools and libraries need make a final decision.

Q: HOW DOES A SCHOOL OR LIBRARY GO ABOUT GETTING A COMPUTER AND HOW MUCH CAN BE SPENT TO PURCHASE ONE?

Funds will be available to each school and library to purchase a computer if the school or library does not already have a computer capable of connecting to an approved Access Tier package. To obtain funds, the school or library must certify to the Advisory Board that it lacks such a computer. The Commission has delegated to the Chairperson of the Advisory Board the authority to approve these requests.

Computers may be chosen from any retail or wholesale outlet. Up to \$3,000 per computer will be available for this purpose. Payments will be made directly to the vendor by NYNEX.

Q: DOES AN ELIGIBLE SCHOOL OR LIBRARY NEED TO CHOOSE AN ACCESS TIER PACKAGE BEFORE IT CAN PURCHASE A COMPUTER?

Not necessarily, but it may be advisable for a school or library to know which Access Tier package it will select to insure compatibility with the other equipment necessary to complete the access connection. The purpose of funding computers is to ensure access to the network. Therefore, until the school or library orders an Access Tier service, the Advisory Board will not authorize funding of a computer.

Q: WHAT INSTITUTIONS QUALIFY AS BEING A SCHOOL OR LIBRARY?

In general, eligible libraries include those that are municipally funded, those that are part of a regional library system, and those that serve as area reference, resource and/or research centers. Eligible schools will include public schools grades kindergarten through 12, and private secondary schools that are "private schools approved

for tuition purposes."

The Order contains a comprehensive definition of eligible institutions. A school or library may contact the Advisory Board for assistance in establishing its eligibility. As there is no deadline to qualify as an eligible institution, schools and libraries should allow the Advisory Board time to develop and distribute information that will help answer these questions.

Q: WHAT ARE THE NEXT STEPS IN THE IMPLEMENTATION OF THE PLAN TO PROVIDE ACCESS TO THE SCHOOLS AND LIBRARIES?

The Order created an Advisory Board to assist the Commission with limited, clearly defined functions necessary to administer the plan. The Advisory Board will ensure that the needs of all interested parties are considered and represented in the information presented to the Commission. The Commission retains all responsibility and authority over decisions necessary to administer the plan.

The Commission will appoint a member of its staff as Chairperson of the Advisory Board. Other members of the Advisory Board will be:

- a. a second member of the Commission's staff;
- b. a representative of the Office of the Public Advocate (OPA);
- c. a representative of NYNEX;
- d. a representative from a Maine member of New England Cable Television Association;
- e. a representative of the Maine Department of Education, appointed by its Commissioner;
- f. a representative of the Maine library community, selected jointly by the Maine Library Commission, the Maine Library Association, and the Maine Educational Media Association; and
- g. a representative of Maine Internet Service Providers (ISPs), selected by the ISPs that have filed comments in Docket No. 94-254.

Members of the Advisory Board will be selected by February 4, 1996. The Commission's Administrative Director must be notified of those selections, as well as the alternate members by this date. Members of the Board who represent industries that have a financial interest in the outcome of the Board's recommendations will not have voting rights. Thus, the voting members shall be the Commission Staff members, the representative of the OPA, and the representatives of the libraries and schools.

Each school or library should contact its representative

body as soon as possible to express interest in the selection of its Board representative. The representatives of the schools and libraries should be notified of a school or library's interest in receiving future information related to the implementation of the plan.

The Commission will hold a conference of the parties and other interested persons on February 6, 1996 at 1:30 p.m. at the Commission's Hearing Room, 242 State Street, Augusta, ME. to address the following issues:

- a. The relationship between the NYNEX frame relay system approved in the Commission's Order and the Asynchronous Transfer Mode (ATM) system being implemented by the State of Maine;
- b. The definition of eligible schools, (i.e., whether non-public schools should be included); and
- c. The number of computers each school will be allowed to purchase that are funded by this plan.

#

Brian

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

February 16, 1996

ORDER RECONSIDERING
ORDER OF JANUARY 5, 1996
(SCHOOLS AND LIBRARIES)

PUBLIC UTILITIES COMMISSION
Investigation Into Regulatory Alternatives
for the New England Telephone and Telegraph
Company d/b/a NYNEX

Docket No. 94-123

FREDERIC A. PEASE ET AL. V.
NEW ENGLAND TELEPHONE AND
TELEGRAPH COMPANY D/B/A NYNEX
Re: Complaint Requesting Commission Investigation
of the Level of Revenues being Earned by NET and
Determination of Whether Toll and Local Rates
Should be Reduced

Docket No. 94-254

WELCH, Chairman; NUGENT and HUNT, Commissioners

On January 25, 1996, the Commission received petitions from NYNEX and from the Telephone Association of Maine (TAM), asking the Commission to reconsider parts of its January 5, 1996 Order, relating to the provision of services to libraries and schools. By Procedural Order issued on January 29, 1996, the Hearing Examiners asked persons wishing to comment on the petitions to do so by February 7, 1996. Comments were received from the Public Advocate, representatives of the library and education communities, Peavey Memorial Library, New England Cable Television Association, and The Community School.

In addition, the Commission held a Conference of Parties on February 6, 1996 to discuss three issues it had left outstanding in its January 5 Order: coordination of the State's asynchronous transfer mode (ATM) system with the NYNEX project; definition of eligible schools; and the number of computers per school. During the Conference, the Commission received additional information on these topics and asked TAM certain questions concerning its petition.

The Commission considered the petitions during its deliberations on February 12, 1996. This Order describes the Commission's decisions on each issued raised by NYNEX and TAM. The Commission also undertook to reconsider certain portions of the January 5 Order on its own motion as described below.

I. NYNEX'S PETITION FOR RECONSIDERATION

NYNEX asks the Commission to reconsider its decision requiring NYNEX to provide funding to schools wishing to obtain services of equivalent value to the 56 kpbs package to be offered by NYNEX under this project. NYNEX claims, once again, that the Commission lacks authority to require such action. NYNEX raises no new arguments, and we will not reconsider our original decision. We continue to believe we have the authority to require NYNEX to provide these services using ratepayer funds as described in our January 5 Order at pages 13-18.

NYNEX further requests that the Commission not require that equivalent value services be coordinated and obtained by NYNEX. We agree with NYNEX that NYNEX need not be the party responsible for procuring the service or having ongoing responsibility once equivalent value equipment is installed. After the service is approved, the school or library should make all arrangements for acquiring the service. NYNEX will be responsible for paying the school or library for the service up to the equivalent value as determined by the Advisory Board and as approved by the Commission. Therefore, the third paragraph of Section III.C.3 (on pages 11-12 of the January 5 Order) should read:

The Access Tier services that will be available as an alternative equivalent value services will be paid for by NYNEX. They may include access technologies and network functions from NYNEX or other providers as approved by the Commission following a recommendation by the Advisory Board as described in Part VII below. Once an equivalent service is approved, the school or library will be required to make its own arrangements with the other suppliers, including other telephone companies, interexchange carriers, cable television companies, private or community owned networks, internet service providers (ISPs), as appropriate

The actual point of demarcation will be case-specific and we expect NYNEX and the alternative service provider to work out that point prior to any installation. If the point of demarcation cannot be resolved, the issue may be brought to the Advisory Board.

Finally, NYNEX asks that we clarify that only carriers certified by the Commission as authorized interstate carriers be permitted to provide alternative equivalent value services. We do not believe the issue of possible utility status of equivalent value service providers needs to be resolved, in the hypothetical, at this time. Attempting to resolve any possible issues now in the abstract would only delay our overall efforts. Therefore, we will not revise our January 5 Order. The Commission, of course, retains its full authority to resolve any relevant regulatory issues involving the delivery of alternative service offerings.

II. TAM'S PETITION FOR RECONSIDERATION AND CLARIFICATION

TAM asks in section 3(a) of its petition that a TAM representative be added to the Advisory Board. We agree that, because 40% of all schools and libraries are in the service territory of independent telephone companies (ITCs), it is appropriate that a TAM representative be included as a non-voting member of the board. We request that TAM provide the name of its designee to the Commission no later than February 23, 1996.

TAM also asks in 3(b) of its petition that we clarify the language in our January 5 Order that requires the program to be extended to all public libraries and schools, provided that "the same plan we approve for NYNEX shall also apply to the independent telephone companies." We agree with TAM that this means that the benefits of the program will be extended to schools and libraries in the ITCs' territories on a no-charge basis and that the costs of computers or training for those schools, as well as the costs to the ITCs of providing the services, will be paid for by NYNEX and counted towards the \$4 million annual total. We also agree that current contractual, operational, and interconnection arrangements between NYNEX and ITCs will remain unchanged.

TAM next asks in section 3(c) that the accounting requirements contained in Section V of the Order be eliminated. We will eliminate the requirement at page 19 that the ITCs "separately account for all capital costs, expenses, and revenue effects that are incurred in connecting schools and libraries." Instead we expect the ITCs to retain financial information relevant to their provision of services to libraries and schools and provide that information at the request of the Commission.

We also note that ITCs' settlements with NYNEX are based on fully distributed embedded costs, while NYNEX has agreed to account for the costs of

this program on a marginal basis. We will monitor any settlements with the ITCs to ensure that the ITCs receive no windfalls due to this program. To help us address this concern, the Commission's Staff will file a report with the Commission following the first settlement proceeding that takes place after installations begin under the program.

TAM asks in section 3(d) of its petition that the Commission clarify that the program is limited to usage at the school or library and does not include re-selling or dial-in or remote usage. Our order is clear that the library or school cannot charge for the service. We agree that dial-in service should be limited. Therefore, dial-in or remote access is limited to library staff, school staff, teachers, and to students with special needs, such as a student with an illness, as determined by the school. No dial-in access is permitted on a fee-basis.

Finally, TAM asks in section 3(e) for certain clarification of the Order's language that lost revenue will not be considered in determining how much of the \$4 million has been spent. Based on the discussion during the Conference, we do not believe any further clarifying language is needed. As stated in the Order no lost revenue incurred by either NYNEX or the ITCs will be counted against the \$4 million.

III. ISSUES LEFT OPEN IN THE COMMISSION'S JANUARY 5, 1996 ORDER

The Commission in its January 5 Order stated it would hold a conference of parties in the near future to discuss three issues: the relationship of the NYNEX program with the State's proposed ATM system; the definition of eligible schools; and the number of computers per school. Based on the information we gathered at the February 6 Conference of Parties we do not believe our order needs to be modified with regard to either ATM or the number of computers. It appears that all necessary parties (including representatives of education, libraries, NYNEX and Department of Administrative and Financial Services) are coordinating the ATM efforts with the NYNEX plan. We anticipate that the coordination will continue and that the Advisory Board will keep us informed if any problems arise in this area. With regard to computers, our order currently allows for schools and libraries without a computer capable of operating with either of the standard packages, to request funding for a computer from the Advisory Board. One computer per school or library is reasonable given our understanding that most if not all of the larger schools already have at least one usable computer.

During the conference we received additional information on how the state defines various categories of schools. We believe it is reasonable to modify the definition of eligible schools to include private schools approved by the state pursuant to 20-A M.R.S.A. § 2901. This would add approximately 82 additional schools to the program. We also wish to make clear that state- approved schools located outside the boundaries of the State of Maine are not eligible. Therefore, the order is amended to add the term "state approved public schools" to those "users" eligible in the first sentence of Section III (page 6). Section III.A.2. (page 9) is revised so that the fifth sentence is eliminated and instead reads as follows:

We will also include "state approved private schools" as schools eligible to participate in this program. This includes all schools meeting the requirements of 20-A M.R.S.A. § 2901 except for any such school located outside the territorial boundaries of Maine.

This will allow private schools approved for tuition plus other private schools approved by the state that meet certain health and safety standards and minimum education and teacher certification standards to participate in the program.

IV. ADDITIONAL MODIFICATIONS TO THE ORDER

Based on the information gathered at the Conference, we find it is reasonable on our own motion to extend eligibility for equivalent value funding to any school or library (meeting the definitions described above), whether or not that school or library already has an existing connection capable of delivering 56 Kbps service. This removes the so-called "pioneer penalty" for those schools and libraries that were on the forefront of obtaining advanced communication services and equipment on their own prior to this program. This involves a relatively small number of schools and libraries and it will have the administrative advantage of treating all eligible schools and libraries in the same manner. The equivalent funding may be used only for going-forward equivalent costs, to the extent recommended by the Board and approved by the Commission.

We also wish to emphasize that the Order defines the relevant public as patrons of a library and students. Any computers purchased or access acquired under this program must be accessible to these two groups. It is not our intent to include school superintendent offices as separate entities eligible for services or equipment, nor is it our intent that the services be terminated in school or library

administrative offices. We are aware that there may be educational benefits associated with such access, and we are willing to revisit this issue once we are confident that our major objectives are achieved. At least initially, however, we believe this program should be focused on students and library patrons.

Two other matters arose in the comments filed in association with the conference and the petitions for reconsideration. Representatives of the Department of Education and the Maine State Library asked for the Commission's concurrence that training of local personnel and local technology planning are critical to the success of the project and that the work of Maine Internet Education Consortium, an affiliate of the Maine Science and Technology Foundation "meets your intent for training." Our January 5 Order requires the Advisory Board to make recommendations to the Commission about necessary training. We expect the Board to invite proposals for offering training. We agree that some initial modest spending may be necessary to assist schools and libraries in the selection process, but we expect the majority of the funds will be used for necessary training after the systems are in place.

The Public Advocate commented that there should be a clear list of services that constitute the backbone and access tiers respectively. As an example, the OPA suggests that internet service be included in the access tier rather than the backbone tier. The January 5 Order at pages 9 and 10 sets out what will be included in the backbone tier. We are not inclined to remove any of these functions as NYNEX made its proposal as package, and we decline to amend our order in this respect.

Finally, we note that the January 5 Order contains three typographical errors which should be corrected as follows:

1. Page 8, subsection 3 should read, "members of a "library district" as defined and described in 27 M.R.S.A. §§ 110(7) and 113;" not section 114
2. Page 23, first paragraph, first sentence should read, "the Chairperson in consultation with the Commission's Staff," not Advisory Staff.
3. Page 23, fourth paragraph should refer to Part VI.A of the Order, not Part V.A.

V. PROCEDURAL MATTERS

Now that our reconsideration is complete, with this Order we will close Docket No. 94-254. Remaining matters related to library and schools will be handled through a separate docket, Docket No. 96-900, NYNEX Schools and Library Project. We will maintain a separate service list for this docket. Anyone wishing to be placed on the service list to receive future Commission orders or notices of hearings related to libraries and schools should submit a letter to the Commission's Administrative Director, Christopher P. Simpson, requesting to be placed on the service list for Docket No. 96-900. Persons who are interested in following the activities of the Advisory Board may wish to do so by monitoring the Commission's Home Page on the World Wide Web rather than being placed on the service list. We plan to include regular updates of Advisory Board activities using this vehicle. The Commission site will be under the State of Maine's Home Page at <http://www.state.me.us/>. We expect our Home Page to be operational within 30 days. Communications will be made directly to libraries and schools about the process for receiving services under the project once the Commission has approved the Advisory Board's plan for implementing this order. That plan is due no later than April 4, 1996. Therefore, libraries and schools only needing information about program participation should not request to be placed on the service list. Libraries seeking to obtain one or two business voice-grade access lines at a discounted rate of \$12 per line per month pursuant to our January 5 Order at Section III.C.5 may do so immediately by contacting NYNEX directly.

The Schools and Libraries Advisory Board will hold its first meeting on Wednesday, February 28 from 1:00 to 4:00 p.m. in the Commission's Hearing Room. These meetings are open to the public, although participation may be limited to board members. Anyone who plans to attend a meeting should call the Commission or check the Commission's Home Page to verify meeting times.

Accordingly, it is

ORDERED

1. That our January 5, 1996 Order is modified as described above in the body of this Order.
2. That NYNEX's Petition for Reconsideration is denied with respect to Point I and III. We adopt Point II as described above in this Order.